

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ESTATE OF MICHAEL EDWARD BELL,
KIM MARIE BELL,
MICHAEL MARTIN BELL,
SHANTAE BELL,

Plaintiffs,

v.

Case No. 05-C-1176

OFFICER ERICH R. STRAUSBAUGH,
OFFICER ERICH S. WEIDNER,
LIEUTENANT DAVID H. KRUEGER,
OFFICER ALBERT B. GONZALES,
KENOSHA POLICE DEPARTMENT,
CITY OF KENOSHA,

Defendants.

ORDER DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
(DOC.# 72) AND SETTING STATUS CONFERENCE

Michael Edward Bell was shot and killed on November 9, 2004, during an altercation with Kenosha police officers. The estate alleges claims under the Fourth and Fourteenth Amendments, and Bell's mother and sister allege claims for negligent infliction of emotional distress. Defendants moved for summary judgment, but the parties' versions of the events could not be more different. Defendants assert that the officers had reasonable suspicion to stop and question Bell about his speeding, that Bell became combative and fought violently when he learned they were going to arrest him, and that deadly force was warranted because Officer Albert Gonzalez believed that Bell had another officer's gun. Plaintiffs assert that Michael Bell was not speeding and or otherwise

violating any traffic laws, that it was the officers who became combative and acted violently, and that Bell never had a gun.

Because Bell's claims survive his death and genuine issues of material fact exist, the defendants are not entitled to summary judgment. The court will set this case for a status conference and proceed to trial. A memorandum decision will issue forthwith. Now, therefore,

IT IS ORDERED that defendants' motion for summary judgment is denied.

IT IS FURTHER ORDERED that the parties shall appear for a status conference on November 12, 2009, at 9:00 a.m.

Dated at Milwaukee, Wisconsin, this 30th day of September, 2009.

BY THE COURT

/s/ C. N. Clevert, Jr.

C. N. CLEVERT, JR.

CHIEF U. S. DISTRICT JUDGE